

House File 339 - Enrolled

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HOUSE FILE 339

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1 3 AN ACT
1 4 RELATING TO THE REGULATION OF TOBACCO PRODUCT RETAILERS, AND
1 5 MAKING PENALTIES APPLICABLE.
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1 7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 9 Section 1. Section 453A.3, subsection 1, paragraphs a and
1 10 b, Code 2005, are amended to read as follows:
1 11 a. A person, other than a retailer as defined in section
1 12 453A.1 or 453A.42, who violates section 453A.2, subsection 1,
1 13 is guilty of a simple misdemeanor.
1 14 b. An employee of a retailer as defined in section 453A.1
1 15 or 453A.42, who violates section 453A.2, subsection 1, commits
1 16 a simple misdemeanor punishable as a scheduled violation under
1 17 section 805.8C, subsection 3, paragraph "b".
1 18 Sec. 2. Section 453A.5, subsections 1 and 2, Code 2005,
1 19 are amended to read as follows:
1 20 1. The alcoholic beverages division of the department of
1 21 commerce shall develop a tobacco compliance employee training
1 22 program not to exceed two hours in length for employees and
1 23 prospective employees of ~~tobacco~~ retailers, as defined in
1 24 sections 453A.1 and 453A.42, to inform the employees about
1 25 state and federal laws and regulations regarding the sale of
1 26 cigarettes and tobacco products to persons under eighteen
1 27 years of age and compliance with and the importance of laws
1 28 regarding the sale of cigarettes and tobacco products to
1 29 persons under eighteen years of age.
1 30 2. The tobacco compliance employee training program shall
1 31 be made available to employees and prospective employees of
1 32 ~~tobacco~~ retailers, as defined in sections 453A.1 and 453A.42,
1 33 at no cost to the employee, the prospective employee, or the
1 34 retailer, and in a manner which is as convenient and
1 35 accessible to the extent practicable throughout the state so
2 1 as to encourage attendance. Contingent upon the availability
2 2 of specified funds for provision of the program, the division
2 3 shall schedule the program on at least a monthly basis and the
2 4 program shall be available at a location in at least a
2 5 majority of counties.
2 6 Sec. 3. Section 453A.22, Code 2005, is amended by adding
2 7 the following new subsection:
2 8 NEW SUBSECTION. 8. For the purposes of this section,
2 9 "retailer" means retailer as defined in sections 453A.1 and
2 10 453A.42 and "retail permit" includes permits issued to
2 11 retailers under division I or division II of this chapter.
2 12 Sec. 4. NEW SECTION. 453A.47A RETAILERS == PERMITS ==
2 13 FEES == PENALTIES.
2 14 1. PERMITS REQUIRED. A person shall not engage in the
2 15 business of a retailer of tobacco products at any place of
2 16 business without first having received a permit as a tobacco
2 17 products retailer.
2 18 2. NO SALES WITHOUT PERMIT. A retailer shall not sell any
2 19 tobacco products until an application has been filed and the
2 20 fee prescribed paid for a permit and until such permit is
2 21 obtained and only while such permit is not suspended,
2 22 unrevoked, or unexpired.
2 23 3. NUMBER OF PERMITS. An application shall be filed and a
2 24 permit obtained for each place of business owned or operated
2 25 by a retailer.
2 26 4. RETAILER == CIGARETTES AND TOBACCO PRODUCTS. A
2 27 retailer, as defined in section 453A.1, who holds a permit
2 28 under division I of this chapter is not required to also
2 29 obtain a retailer permit under this division. However, if a
2 30 retailer, as defined in section 453A.1, only holds a permit
2 31 under division I of this chapter and that permit is suspended,
2 32 revoked, or expired, the retailer shall not sell any
2 33 cigarettes or tobacco products during the time which the
2 34 permit is suspended, revoked, or expired.
2 35 5. SEPARATE PERMIT. A separate retail permit shall be
3 1 required of a distributor or subjobber if the distributor or
3 2 subjobber sells tobacco products at retail.
3 3 6. ISSUANCE. Cities shall issue retail permits to
3 4 retailers within their respective limits. County boards of
3 5 supervisors shall issue retail permits to retailers in their

3 6 respective counties, outside of the corporate limits of
3 7 cities. The city or county shall submit a duplicate of any
3 8 application for a retail permit and any retail permit issued
3 9 by the entity under this section to the Iowa department of
3 10 public health within thirty days of issuance.

3 11 7. FEES == EXPIRATION.

3 12 a. All permits provided for in this division shall expire
3 13 on June 30 of each year. A permit shall not be granted or
3 14 issued until the applicant has paid the fees provided for in
3 15 this section for the period ending June 30 next, to the city
3 16 or county granting the permit. The fee for retail permits is
3 17 as follows when the permit is granted during the months of
3 18 July, August, or September:

3 19 (1) In places outside any city, fifty dollars.
3 20 (2) In cities of less than fifteen thousand population,
3 21 seventy-five dollars.
3 22 (3) In cities of fifteen thousand or more population, one
3 23 hundred dollars.

3 24 b. If any permit is granted during the months of October,
3 25 November, or December, the fee shall be three-fourths of the
3 26 above maximum schedule; if granted during the months of
3 27 January, February, or March, one-half of the maximum schedule,
3 28 and if granted during the months of April, May, or June, one-
3 29 fourth of the maximum schedule.

3 30 8. REFUNDS.

3 31 a. An unrevoked permit for which the retailer paid the
3 32 full annual fee may be surrendered during the first nine
3 33 months of the year to the officer issuing it, and the city or
3 34 county granting the permit shall make refunds to the retailer
3 35 as follows:

4 1 (1) Three-fourths of the annual fee if the surrender is
4 2 made during July, August, or September.
4 3 (2) One-half of the annual fee if the surrender is made
4 4 during October, November, or December.
4 5 (3) One-fourth of the annual fee if the surrender is made
4 6 during January, February, or March.

4 7 b. An unrevoked permit for which the retailer has paid
4 8 three-fourths of a full annual fee may be surrendered during
4 9 the first six months of the period covered by the payment, and
4 10 the city or county shall make refunds to the retailer as
4 11 follows:

4 12 (1) A sum equal to one-half of an annual fee if the
4 13 surrender is made during October, November, or December.
4 14 (2) A sum equal to one-fourth of an annual fee if the
4 15 surrender is made during January, February, or March.

4 16 c. An unrevoked permit for which the retailer has paid
4 17 one-half of a full annual fee may be surrendered during the
4 18 first three months of the period covered by the payment, and
4 19 the city or county shall refund to the retailer a sum equal to
4 20 one-fourth of an annual fee.

4 21 9. APPLICATION. Retailer permits shall be issued only
4 22 upon applications, accompanied by the fee indicated above,
4 23 made upon forms furnished by the department upon written
4 24 request. The failure to furnish such forms shall be no excuse
4 25 for the failure to file the form unless absolute refusal is
4 26 shown. The forms shall specify:

4 27 a. The manner under which the retailer transacts or
4 28 intends to transact business as a retailer.
4 29 b. The principal office, residence, and place of business,
4 30 for which the permit is to apply.
4 31 c. If the applicant is not an individual, the principal
4 32 officers or members of the applicant, not to exceed three, and
4 33 their addresses.
4 34 d. Such other information as the director shall by rules
4 35 prescribe.

5 1 10. RECORDS AND REPORTS OF RETAILERS.

5 2 a. The director shall prescribe the forms necessary for
5 3 the efficient administration of this section and may require
5 4 uniform books and records to be used and kept by each retailer
5 5 or other person as deemed necessary.

5 6 b. Every retailer shall, when requested by the department,
5 7 make additional reports as the department deems necessary and
5 8 proper and shall at the request of the department furnish full
5 9 and complete information pertaining to any transaction of the
5 10 retailer involving the purchase or sale or use of tobacco
5 11 products.

5 12 11. PENALTIES. The permit suspension and revocation
5 13 provisions and the civil penalties established in section
5 14 453A.22 shall apply to retailers under this division, in
5 15 addition to any other penalties imposed under this division.
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CHRISTOPHER C. RANTS
Speaker of the House

JOHN P. KIBBIE
President of the Senate

I hereby certify that this bill originated in the House and
is known as House File 339, Eighty-first General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2005

THOMAS J. VILSACK
Governor